



An  
Bord  
Pleanála

## Inspector's Report

### ABP-319755-24

#### Development

RETENTION: Retain and complete amendments to the previously granted dwelling D16A/0732 and D22A/0095. Retention of porch to the main entrance and reduction of floor area at the upper floor with internal and external alterations to the dwelling. Construction of canopy to the front door and minor relocation of vehicular entrance piers and all associated site works. Site is within an Architectural Conservation Area.

#### Location

Rosscahill, Military Road, Killiney, Co. Dublin

#### Planning Authority

Dun Laoghaire Rathdown County Council

#### Planning Authority Reg. Ref.

D24A/0115

#### Applicant(s)

Gail Dempsey

#### Type of Application

Retention and planning permission

#### Planning Authority Decision

Grant permission

**Type of Appeal**

Third Party

**Appellant(s)**

Bill and Carol Emmott

Killiney Residents

**Date of Site Inspection**

10<sup>th</sup> December 2024

**Inspector**

Sarah O'Mahony

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## 1.0 Site Location and Description

- 1.1. The 0.7ha site is situated in Killiney, Co. Dublin, 225m southwest of Killiney dart station. The site comprises a 203.5m<sup>2</sup> detached two storey dwelling accessed from a shared cul-de-sac off Military Road. The seafront is situated 200m to the east while Killiney monastic site is situated 50m to the north. There is a pedestrian access along the southern boundary of the site connecting the cul-de-sac with Marino Avenue east.
- 1.2. The site is situated in an Architectural Conservation Area (ACA) as characterised by a prevalence of large historic detached and terraced dwellings on large plots with landscaped gardens. The dwellings on all adjoining land, with the exception of the parent property to the north from which the site was subdivided, are all protected structures. This includes dwellings to the northeast, east, south and west with a visual connection to each.
- 1.3. The site slopes down to the south, west and east towards the seafront and rises to the north at the rear of the dwelling. The dwelling on the site and the groundworks forming the vehicular and pedestrian accesses all have the appearance of recent construction and occupation. Some soft landscaping has been planted but is yet to mature and fully establish.

## 2.0 Proposed Development

- 2.1. Permission is sought to retain alterations to the permitted dwelling as follows:
  - 2.5m<sup>2</sup> porch to the main entrance on upper floor and associated additional 2.5m<sup>2</sup> floorspace at lower floor all at the southwest of the dwelling,
  - Reduction of floorspace at the upper floor by 1.5m<sup>2</sup> to provide a rooflight to the lower floor ensuite at the west of the dwelling,
  - New recessed window lightwells on lower floor to east and west, reducing the floor area by 7.5m<sup>2</sup>.
  - Relocation of front steps 1.5m to the south,
  - New window on west elevation of upper floor.
  - Additional stone cladding on north, east and west elevations.

- The development description states the revised total floor area of the dwelling now comprises 192m<sup>2</sup>. I note however that the floorspace permitted under the parent permission was 187m<sup>2</sup> which was revised to 207.5m<sup>2</sup> in an alterations application (refer to planning history later in this report). I therefore consider that the alterations above would result in a total floorspace of 203.5m<sup>2</sup>.

2.2. Planning permission is sought for the following works:

- Construction of canopy to the front door and
- Relocation of vehicular entrance piers, hard and soft landscaping including relocating pedestrian access along south of the site, and all associated site works.

### 3.0 Planning Authority Decision

#### 3.1. Decision

- 3.1.1. A notification of decision to GRANT retention permission was issued by Dún Laoghaire-Rathdown County Council (the Planning Authority) on 22<sup>nd</sup> April 2024 subject to 3 conditions.

#### 3.2. Planning Authority Reports

##### 3.2.1. Planning Reports

- The Planners report recommendation to grant retention permission is consistent with the notification of decision which issued.
- The report notes that the principle of development had already been assessed and established in a previous grant of permission and therefore the matter of principle as raised in third party submissions was outside of the scope of the assessments. The alterations were all considered acceptable in terms of future occupants' residential amenity as well as impacts on adjoining properties due to their scale, layout and set back from those adjoining properties.
- Appropriate Assessment (AA) and Environmental Impact Assessment (EIA) issues are both screened out.

##### 3.2.2. Other Technical Reports

- Transportation Planning: Report received which outlined conditions to be attached in the event of a grant of permission, including that the vehicular entrance piers are no higher than 1.1m to ensure good visibility.
- Drainage Planning: Report received recommending one condition that all drainage related conditions and obligations of the parent permission shall apply.

### 3.3. Prescribed Bodies

None received.

### 3.4. Third Party Observations

6 no. third party submissions are received from occupants of neighbouring properties objecting to the development. The following concerns are raised:

- Non-compliance with parent permission.
- Unauthorised removal of eastern boundary.
- Drawing inaccuracies and inaccurate and misleading development description.
- Overlooking and overshadowing.
- Bulk and massing visual impact.
- Impact from lighting and CCTV.
- Poor internal amenity for occupants of the dwelling.
- Different construction methodology to that permitted.
- Visual impact to ACA, protected structures and Killiney Monastery. Development does not comply with Policy Objective HER 13.
- Landscaping proposal is unlikely to be implemented and precludes previous permitted scheme.
- Unacceptable revisions to the southern boundary and public walkway.
- Limitations on future extension of existing neighbouring dwellings.
- Property devaluation.
- Inaccurate response to further information request on previous permission.

- Wastewater connection capacity and consent.
- Planning Authority assessment lacks due diligence.

## 4.0 Planning History

The following planning history all relates to the subject site.

- DLRCC Ref. D14A/0040, ABP Ref. PL 06D.243641: Planning permission refused for development comprising new two storey split level dwelling by reason of dwelling height, scale and design being considered obtrusive and overbearing and deliver a poor standard of amenity for future occupants.
- DLRCC Ref. D16A/0732, ABP Ref. PL06D.248079: Planning permission granted for construction of a new partial two-storey, flat roof, detached 3-bedroom, split-level, 187sqm dwelling with public drainage connections, all within the garden with new vehicular access to Military Road together with works to boundary wall to existing house, all boundary treatments, landscaping and ancillary works.
- D16A/0732/E: Extension of duration granted to extend the appropriate period of ref D16A/0732.
- D22A/0095, ABP Ref. PL06D.313426: Planning permission granted for amendments to previously granted dwelling reg. ref. D16A/0732 as follows: (a) 8.6 sqm two storey extension to the rear (north) and (b) 3.9 sqm two storey extension to the side (west) increasing the total floor area of the house by 12.5sqm, and (c) the addition of an 8sqm balcony to the front (south) at first floor level.

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. The site is governed by the policies and provisions contained in the Dún Laoghaire-Rathdown County Development Plan 2022-2028 (referred to hereafter as the Development Plan). The site is zoned A where the objective is to provide residential development and improve residential amenity while protecting the existing residential amenities.

- 5.1.2. The site is also situated in Killiney Architectural Conservation Area (ACA) and therefore Policy Objective HER 13 is the relevant policy which seeks to ultimately protect the character and special interest of the ACA ensuring high quality and sensitive design is permitted which is sensitive to the context and scale of surrounding development.
- 5.1.3. As outlined previously, the site is surrounded by and has visual connectivity to a number of protected structures. The language of Policy Objective HER 8 implies it is relevant for works to a protected structure, or within its curtilage and attendant grounds only. I consider however that part (i) as set out below also provides a degree of protection for the protected structure against inappropriate development outside of that property but which may affect it and is therefore relevant in this case. Objective HER 8 states that it is a policy objective to:

*Protect structures included on the RPS from any works that would negatively impact their special character and appearance.*

- 5.1.4. Specific Local Objective 130 applies to the site and its surrounding area and seeks:

*To ensure that development within this objective area does not (i) have a significant negative impact on the environmental sensitivities in the area including those identified in the SEA Environmental Report, and/or (ii) does not significantly detract from the character of the area either visually or by generating traffic volumes which would necessitate road widening or other significant improvements.*

- 5.1.5. Section 12.3.7.1 provides a framework for extensions and alterations to dwellings. It provides design guidance depending on the location of the proposed extension and requires the design to uphold the residential amenity of existing dwellings and to be proportionate to the parent dwelling.

## **5.2. Sustainable Residential Development and Compact Settlement Guidelines**

- 5.2.1. The guidelines, hereafter referred to as the Compact Settlement Guidelines, set out a context to create higher density settlements to underpin sustainable development principles. Specific Planning Policy Requirements (SPPRs) are set out including SPPR 1 which refers to minimum standards for separation distances between residential units and opposing windows in habitable rooms.



### **5.3. Quality Housing for Sustainable Communities, DoEHLG 2007**

- 5.3.1. The guidelines are a best practice handbook for identifying good quality residential amenity in order to deliver homes and sustainable communities. The guidelines were not published under Section 28 of the Planning and Development Act 2000, as amended, but are intended to provide guidance and recommendations to achieve a minimum standard of residential amenity. They do not purport to be comprehensive nor seek to prescribe design solutions. They are intended to assist designers but proper design input on each project remains essential.

### **5.4. Natural Heritage Designations**

The site is situated 300m northwest of the Dalkey Coastal Zone and Killiney Hill proposed Natural Heritage Area. It is also located 1.6km west of Rockabill to Dalkey Island Special Area of Conservation and 2.5km southwest of Dalkey Islands Special Protection Area.

### **5.5. Built Heritage Designations**

The site intersects the zone of notification associated with Killiney Monastery (DU026-013001 – 013008) which is recorded on the Sites and Monuments Record. The curtilage of the monastery is situated 45m north of the site, to the north of a dwelling from which the site was originally subdivided. The following records are recorded on the SMR within the curtilage of the ruined monastic site:

- Church (026-013001),
- Graveyard (026-013002),
- Inscribed Stone (026-013003)
- Holy Tree (026-013004),
- Font (026-013005),
- Cross (026-013006),
- Cross (026-013007),
- Ecclesiastical Enclosure (026-013008)

## **5.6. EIA Screening**

See EIA Pre-Screening Form 1 in Appendix 1. The development is not a class of development requiring mandatory or sub-threshold EIA and therefore there is no EIA Screening requirement.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

- Full extent of alterations not reflected in the application.
- Non-compliance with conditions set out in parent permission. This application seeks to regularise entire development by focusing on minor alterations only. This is an abuse of the planning system. Permission should be refused on the basis of the consolidation of unauthorised development.
- Unauthorised removal of boundary hedgerow and vegetation including from adjoining property. No consent given for existing replacement hedgerow on adjoining property with immature plants, which is already showing signs of failure to establish. Proposed concrete post and timber panel fence is inappropriate in the ACA.
- Encroachment of unauthorised eastern boundary retaining wall and foundations onto adjoining property. Wall and foundations cannot claim to be exempt development due to location within ACA and contravening a condition.
- Extent of groundworks to front (south) of site do not constitute 'minor relocation of vehicular entrance piers' as described in the development description.
- Footprint of the building has increased by 15% and not reduced as stated in the development description. The footprint illustrated on drawing no. PL 003 illustrates a different area than the individual elements where permission is sought. The resulting in-situ structure has an inappropriate mass and scale not provided for in the development description and resulting in landtake of the adjoining property.
- Entire building is relocated further north than permitted layout.
- No consent was given to connect to the private foul pipe which is designed as a septic tank overflow and not for everyday use to connect to the public sewer. This is

in breach of note 1(4) on the Notification to Grant Permission and is not reflected in the development description.

- Recommendation to refuse permission and impose exemplary penalties.
- Drawing inaccuracies. Drawings are deliberately misleading.
- Bedrooms 1 and 2 have materially changed in terms of residential amenity. No direct external window and inadequate widths/lengths and daylight.
- Impact to visual and residential amenity. Overlooking and loss of privacy for dwellings on all adjoining property.
- An Bord Pleanála is invited to utilise powers under Section 132 of the Planning and Development Act 2000 (as amended) to revise the nature and extent of the application to address all unauthorised development. This should include an independent survey of both the as-built dwelling and neighbouring properties as well as a detailed floor area schedule of the dwelling.
- Recommended conditions to apply in the event of a grant of permission. These include removal of some glazing and obscuring of others, removal of any works encroaching adjoining property along the eastern boundary, a revised landscaping scheme and revision of the car parking area to the south to reinstate the permitted layout.

## **6.2. Planning Authority Response**

- The Planning Authority's response considers that no new matters are raised which would justify a 'change of attitude' towards the proposed development.

## **7.0 Assessment**

### **7.1. Introduction**

- 7.2. The development seeks planning and retention permissions for alterations to a permitted and occupied dwelling, its access and landscaping. Section 12.3.7.1 of the Development Plan provides guidance for extending and altering existing dwellings depending on the location of the extension relative to the parent dwelling. The subject dwelling was altered in a number of different ways without the addition of one

clear extension. In my opinion however I consider that the development complies with the high level guidance that any extension is of appropriate design and scale which respects the scale of the primary dwelling as well as neighbouring residential amenity. I also note however that the site is situated in A zoned lands which seeks to improve residential amenity while protecting the existing residential amenities. Further, Objective 130 is a site-specific local land use objective which upholds environmental protections as well as the visual character of the area and I note the site's location in an ACA together with its relationship to a number of protected structures on adjoining property.

- 7.3. In this regard, I consider that the high-level principle of development is acceptable, that is the carrying out of domestic scale alterations to a new dwelling, subject however to additional assessment later in this report concerning impacts to residential amenity and built heritage to address the site-specific context of the alterations.

#### **7.4. Legal and Enforcement Issues**

- 7.4.1. I consider it important at this early stage to outline the scope of this assessment and limitations of functions of An Bord Pleanála as a Planning Authority. The appeals make reference to additional and extensive allegedly unauthorised development on the site which was not highlighted in this application, but which, the appeals submit, the Applicant is seeking to regularise through the mechanism of this application for retention and planning permission. The application is referred to in the appeals as an overall consolidation of the unauthorised development.
- 7.4.2. At the outset I highlight that An Bord Pleanála does not have an enforcement function and has no legislative powers to impose penalties as suggested in the appeals.
- 7.4.3. It should also be noted that matters requiring compliance with building regulations, e.g. safe egress from bedrooms, relate to a different legislative code to planning and are therefore outside of the scope of An Bord Pleanála's functions. Matters regarding encroachment and consent for works to third party lands or connection to a private wastewater pipe are civil matters and again outside of the scope of this assessment. And lastly, matters relating to enforcement and non-compliance with a grant of planning permission are for the Local Authority. The scope of this assessment

relates only to the permission sought as described in the development description and illustrated in the drawings submitted.

7.4.4. The full development description as advertised in the statutory notices is as follows:

- *Retain and complete amendments to the previously granted dwelling reg. ref. D16A/0732 and D22A/0095 as follows: (a) Retention of 2.5sqm single storey porch to the main entrance located at the upper storey to the southwest and reduction of floor area at the upper floor (west side) by 1.5sqm to provide a rooflight to the lower ground en suite, provision of additional 2.5sqm area to the lower level bedroom and en suite, and relocation of the entrance steps by 1.5m to the south, and alterations to the bedroom windows and provision of a recessed window arrangement providing lower floor light wells including windows to the east and west together with a new window to the upper floor on the west side. The provision of the light wells will reduce overall total floor area by 7.5sqm providing a new total floor area for the house of 192sqm. (b) Permission sought for proposed 1m x 1.5m canopy to front door and minor relocation of vehicular entrance piers and stepped landscaping feature to facilitate screening planting. Site is within an Architectural Conservation Area.*

7.4.5. At the time of the site inspection I note that the majority of the works were in place. The vehicular entrance and associated boundary walls were in place but a gate and some minor works e.g. electrical fittings were outstanding. Boundary planting was implemented to the south and east boundaries. The proposed new canopy over the front porch was not however in place and ground surfaces at both the west and east sides of the dwelling were not finalised. In this regard I noted a door on the eastern elevation serving the utility room where the ground level outside the door was approximately 1m below the threshold.

7.4.6. I note the development description includes a reference to 'all associated site works' and that the architectural drawings submitted appear, in my opinion, to largely illustrate the current as-built scenario. They outline the position of the dwelling on the site and the outline of the permitted dwelling's footprint highlighting the changes undertaken and dimensions are clearly stated. The appeals outline how some of the dwelling's dimensions are different to the permitted building and upon reviewing the

drawings received I confirm that this is the case. However I consider that retention of this revised dwelling is within the scope of retention permission sought.

7.4.7. Items which are raised in the appeal, and which are not specifically highlighted in drawings or referred to in the development description include the following:

- Wastewater connection,
- Relocation of the dwelling and
- Removal of eastern boundary and replacement with retaining walls and hedgerow.

7.4.8. Regarding wastewater, I note the appeals refer to the principle of the wastewater connection which was established and permitted under the parent permission and therefore there is no scope to assess its principle in this appeal.

7.4.9. Regarding relocation of the dwelling further north, I have reviewed the proposed and permitted drawings in both original case files and in my opinion the dwelling has not clearly and materially been relocated northwards as contended. As noted previously, any such discrepancy is an enforcement issue for the Planning Authority.

7.4.10. With respect to the eastern boundary, I note the previous grant of permission included a condition requiring the hedgerow and trees to be retained and augmented and that the drawings state '*existing boundary hedge trimmed back and retained*'. Upon inspection of the site I can confirm that any such previously existing vegetation has been removed entirely from the site and in its place sits a newly planted immature evergreen hedge as well as some retaining walls and a low capped and rendered wall along the southeastern portion of boundary, in front of the front building line. The site layout drawing received with this application illustrates a hedgerow however there is no annotation clarifying or confirming this.

7.4.11. I note the development description seeks permission to 'complete amendments' however having regard to the above, I consider those amendments do not include the eastern boundary. References to a stepped landscape feature or all associated site works do not in my opinion include removal of the hedgerow along the entire eastern boundary or provision of retaining walls in the southeast of the site.

7.4.12. In conclusion, I consider that retaining changes to the dwelling should be included in this assessment. Retaining revisions to the location of the vehicular entrance piers

should also be included together with revisions to the private open space and relocation of the public path to the south of the site. Works to the eastern boundary however, in my opinion, do not come within the scope of this assessment. These are a matter for the enforcement section of the Local Authority to determine if they comply with the existing grants of permission or not.

#### **7.5. Section 132 Request**

7.5.1. The appeals consider that the scale of the alterations undertaken onsite and the associated extent of deviation from the permitted development justify a further information request under Section 132 of the Planning and Development Act 2000 (as amended) in order to regularise all alleged unauthorised development.

7.5.2. The appeal submits:

*“Notwithstanding, on the basis that the Board accepts our position that the as built house plus other works at the appeal site are unauthorised development in that they do not comply with condition no. 1 of either planning permission and they are not covered by the works outlined in this latest application, it is recommended that the Board exercises its powers under section 132 of the Planning and Development Act 2000 (as amended) to enable the applicant to revise the nature and extent of the application to address all unauthorised development.”*

7.5.3. As stated above, in my opinion most of the alterations referred to in the appeals are included in this retention application. I consider that a Section 132 request is not an appropriate mechanism for regularisation and that enforcement and specifically enforcement of compliance with a grant of permission is a matter for the Local Planning Authority.

#### **7.6. Assessment Topics**

7.6.1. Therefore, having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal therefore are as follows:

- Visual impact to residential amenity, ACA and protected structures,
- Overlooking and

- Residential amenity of bedrooms 1 and 2.

7.6.2. When considering impacts to adjoining properties, I note requests inviting the Inspector to inspect those properties however I have had regard to photographs and photomontages received with the submissions to the planning application as well as the appeals themselves. I considered these to be sufficient, together with an inspection of the site itself, to ascertain impacts to the adjoining properties.

## **7.7. Visual Impact**

7.7.1. I consider that the changes carried out to the dwelling itself are minor in scale and nature and would not visually impact the amenity of the area. These include the listed fenestration amendments as well as changes to the footprint and scale of the dwelling. The dwelling alterations, in my opinion, do not constitute any perceptible departure from the character of the permitted dwelling which was permitted under a previous grant of permission and which determined that the character of the contemporary design would not impact the character of either the ACA or adjoining protected structures.

7.7.2. I note a matter raised in the appeals which state that ground levels on the adjoining dwelling to the east were incorrectly illustrated on the previous drawings, thereby understating the impact that the dwelling would have on the visual amenity of that dwelling which is referred to as Winterslow. Those drawings however related to the principle of providing the entire dwelling while this application relates to alterations to the dwelling which is now in place. In my opinion, the only perceptible alterations visible from the Winterslow property comprise the recessed window on the eastern elevation. A large window was previously permitted in this location and in my opinion, the revised arrangement which has increased the separation distance by setting the larger window deeper into the building is a minor alteration which would not detract from the architectural character of the adjoining protected structure.

7.7.3. I agree with the appeals that the changes to boundary treatments are more impactful as they remove any screening and softening to the structure itself. I consider that these changes have increased the visual impact of the structure and impacted upon the visual amenity of the adjoining properties to the east and northeast. However, as stated previously, I do not consider that the changes to the eastern boundary fall



within the scope of retention permission sought and therefore remain a matter for the Planning Authority to address.

- 7.7.4. The southern boundary treatment has remained in situ and comprises a tall stone wall situated between the public walkway and an adjoining dwelling to the south referred to as 'Lothlorien'. Works undertaken immediately adjoining the northern façade of this wall, within the site, have altered the layout of the area by relocating the path and car parking and thereby increased visibility of the new dwelling from the protected structures to the south. It has also therefore decreased the visual amenity of those dwellings as the permitted layout provided for a shelter belt of trees and shrubs between the existing older wall and the permitted parking area which is no longer provided.
- 7.7.5. The revised and in situ arrangement relocates the public path immediately adjacent that boundary wall and provides some deep planters which have tall clearstem trees planted. These have the effect of providing additional screening above the parapet of the wall while not blocking the pedestrian thoroughfare and, judging by the photographs submitted with the appeals, were planted recently following submission of the appeals.
- 7.7.6. In my opinion there is scope for additional screening adjacent to the opposite wall of the pedestrian path, that is along the southern boundary of the parking area/top of the retaining wall forming the northern boundary of the path. If for example another row of the same evergreen trees were provided in similar planters but at that higher ground level, it would increase the visual screening provided and reduce overlooking to the adjoining properties. I recommend that in the event of a grant of permission, a condition is applied requiring additional screening to be provided along this boundary.
- 7.7.7. In terms of landscaping proposed in this 'stepped landscape feature', the site layout plan illustrates a different layout and location of paving, lawn and parking areas to what I inspected on the site. No reference is made on the site layout drawing to a retaining wall or to the low capped and rendered walls I noted on the site. A set of high-level conceptual landscaping drawings are received which I note are different again to both the site layout drawing and the layout I inspected and include annotations such as '*steps to laneway to be designed when levels are agreed on*

site' or references to a post and panel fence '*possibly painted*' along the eastern boundary. It also references providing an arched pedestrian gate between the site and the public walk to the south and I note from the inspection that provision was not made for this in the newly installed retaining wall along the walkway. In this regard I consider these drawings are high level and conceptual only and that a detailed landscaping proposal is required to be agreed with the Planning Authority. I note condition no. 3 of the parent permission requires this however in light of the extent of alleged unauthorised works undertaken already which relate to boundary treatments, I consider it appropriate to again require a revised landscaping scheme which proposes more finalised details as well as incorporating recommendations set out in this report.

- 7.7.8. In conclusion, I consider that the development would not detract from the character of the ACA or adjoining protected structures and therefore complies with Policy Objectives HER 8 and HER 13. I also consider that the alterations for which permission is sought under this planning application would not significantly negatively affect the visual amenity of adjoining properties and are not a significant departure from the permitted scheme.

## **7.8. Overlooking**

- 7.8.1. The overarching issue raised in the appeals is overlooking to adjoining property and the subsequent impact to residential amenity. The amendments to the dwelling itself, which provide for potential new overlooking opportunities and as referenced in the appeals, are as follows:

- New large window on the western elevation,
- Revised large window and additional recessed parallel windows on the eastern elevation and
- The glazed front door.

No overlooking is possible from the new lightwells which are below ground level.

- 7.8.2. The new window on the western elevation provides natural daylight to the kitchen and faces the eastern side façade of Abbeylands East which is a dwelling which is a protected structure situated west of the site. There is one small first floor window on that eastern façade which has very limited visual connection with the new window on

the western elevation of the subject dwelling due to the location of two large and mature trees within the Abbeylands East property. There is also a good degree of lower level vegetative screening in the form of shrubs and smaller trees all situated within the Abbeylands East property together with a shed within Abbeylands East but immediately adjacent the western boundary of the site, 6m from the western elevation of the subject dwelling. In this regard, I consider that there are very limited opportunities for overlooking to Abbeylands East from the alterations set out in this planning application.

- 7.8.3. The new front door faces south towards the dwellings to the south and has one large, transparent, glazed panel. Submissions from 'Lothlorien', which is the westernmost dwelling of the terrace to the south, raised concerns regarding overlooking from that door as well as from the new car parking area which are both at a much higher ground level than Lothlorien due to the fall in ground levels in the wider area from north to south.
- 7.8.4. I consider that the front door is a transitory location and serves natural light to the hall only. There is no amenity purpose beyond natural light to require a transparent glazing panel here however I also note that while situated at a higher ground level, the door is situated 35m from the opposing rear elevation which is far in excess of any separation distances specified in SPPR 1 of the Compact Settlement Guidelines. I therefore consider that the separation distance together with the existing and recommended additional soft landscaping are sufficient to ensure no significant impact to residential amenity would occur as a result of this change to the permitted scheme. I also consider that the proposed and existing landscaping would prevent overlooking from the parking area and in this regard the landscaping should include both a hedgerow and the aforementioned trees.
- 7.8.5. On the eastern elevation, the large picture window serves the stairwell which is also a transitory location and therefore unlikely to be used as an amenity space with opportunities to survey views. However, it is also situated very close to the eastern boundary and at a much higher level than the adjoining property. In this regard I consider that the window should be finished permanently with opaque glazing which will still allow for light to enter the building but prevent views overlooking of adjoining properties. I note the stairwell would also be served by the overhead skylight and therefore consider the space would be served well with natural daylight.

- 7.8.6. I do not consider it necessary to remove the side windows of this recessed arrangement above ground level. They are set back within the eastern elevation but face into one another to the north and south, serving a utility and living room respectively. Due to their orientation directly facing each other and recessed location inside the eastern elevation, I do not consider there are sufficient overlooking opportunities available from either window to the Winterslow property to the east or the Kildoon property to the northeast.
- 7.8.7. Lastly, the appeals refer to overlooking caused by a change in fenestration treatment accessing the permitted balcony on the front southern elevation. The permitted drawings illustrate 4 bays of glazing between the living room and balcony and two arrows imply that the centre two bays would open. The appeal submits that as bifold doors are in place, this enables additional overlooking, however I disagree. I consider that it is the balcony itself which affords the overlooking and not a change to the width of entry to the balcony. The balcony was permitted previously and therefore does not come into the scope of this assessment.

#### **7.9. Residential Amenity of Bedrooms 1 and 2**

- 7.9.1. The appeals highlight how the internal residential amenity of bedrooms nos 1 and 2 have been reduced by the alterations undertaken and particularly the change to fenestration in both rooms. The permitted layout positioned a terrace to the west with large windows from both bedrooms overlooking the terrace. In this as built layout, both rooms are served by full height narrow windows within lightwells which are effectively very small internal courtyards within the envelope of the building.
- 7.9.2. I agree that residential amenity is diminished as the permitted layout would have afforded more natural light, however I consider that adequate lighting for bedrooms is provided and I do not consider that the as built layout is sufficiently negative as to require alterations or a refusal of permission.
- 7.9.3. Section 12.3.4.2 of the CDP requires the minimum size of habitable rooms for dwellings to conform with appropriate national guidelines/ standards in operation at the date of application for planning permission, including the minimum dimensions as set out in 'Quality Housing for Sustainable Communities: Best Practice Guidelines for Delivering Homes Sustaining Communities' (2007). The appeals highlight that the bedrooms do not meet the minimum required 2.8m width as set out in the 'Quality

Housing and Sustainable Communities' guidance document. Section 5.3.1 of this document states target and minimum floor areas 'likely to be required to satisfy requirements of normal living' and recommends double bedrooms to be at least 11.4m<sup>2</sup>. It goes on to discuss a recommended minimum unobstructed room width for bedrooms as 2.8m. The dimensions provided for both bedrooms are stated to be 2.7m wide with an area of over 16m<sup>2</sup> in both cases. Floor to ceiling heights are 2.7m which is also above the standard 2.4m which aids in increasing the volume and amenity value of the rooms. In my opinion, the 0.1m deviation from the recommended room width is immaterial when considered in tandem with the full height window, increased ceiling height and increased floor area above the minimum standards.

## **8.0 AA Screening**

- 8.1. I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended.
- 8.2. The subject site is located 1.6km west of Rockabill to Dalkey Island Special Area of Conservation and 2.5km southwest of Dalkey Islands Special Protection Area.
- 8.3. The proposed development comprises alterations to existing dwelling, vehicular access and landscaping.
- 8.4. No nature conservation concerns were raised in the planning appeal.
- 8.5. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:
- 8.6. The small scale and domestic nature of the works in a serviced urban area,
- 8.7. The distance from the nearest European site and lack of connections, and
- 8.8. Taking into account screening report/determination by LPA,
- 8.9. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

- 8.10. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

## 9.0 Recommendation

I recommend that retention and planning permission be granted, subject to conditions, for the reasons and considerations set out below.

## 10.0 Reasons and Considerations

Having regard to the location and character of the site and surrounding area in an Architectural Conservation Area and surrounded by protected structures, together with the planning history on the site and the provisions of the Dún Laoghaire-Rathdown County Development Plan 2022-2028 including Policy Objectives HER 8 and HER 13, the 'A' zoning objective for the area and Specific Local Objective 130, it is considered that, subject to compliance with the conditions set out below, the scale and nature of the development is acceptable. The development would comply with local design guidance and would not seriously injure the visual or residential amenity of the area or the character of the ACA and protected structures. The development is, therefore, in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1.	<p>The development shall be retained and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
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2.	<p>Apart from the departures authorised in this permission, the development shall otherwise comply with the terms and conditions attached to planning reg. ref. D16A/0732, PL06D.248079 and D22A/0095, PL06D.313426.</p> <p>Reason: in the interest of clarity.</p>
3.	<p>The Applicant shall submit a landscaping plan for the written agreement of the Planning Authority within three months of this grant of planning permission. The Plan shall detail all hard and soft landscaping proposals throughout the site including boundary treatments and a planting schedule. Once approved, the plan shall be implemented within the following planting season. The plan shall include additional semi mature tree and hedgerow planting situated along the southern boundary of the car parking area/top of the retaining wall at the north of the public path as well as along the eastern boundary of the site to provide additional visual screening.</p> <p>Reason: In the interest of visual and residential amenity.</p>
4.	<p>The eastern elevation window serving the stairwell shall be permanently fitted with opaque glazing within six months of this grant of planning permission.</p> <p>Reason: In the interest of residential amenity.</p>

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Sarah O'Mahony  
Planning Inspector

22<sup>nd</sup> January 2025

# Form 1

## EIA Pre-Screening

<b>An Bord Pleanála</b> <b>Case Reference</b>	319755-24		
<b>Proposed Development</b> <b>Summary</b>	Retention and planning permission is sought for alterations to permitted and existing dwelling.		
<b>Development Address</b>	Rosscahill, Military Road, Killiney, Co. Dublin		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b> <b>X</b>	Tick if relevant and proceed to Q2.
		<b>No</b>	Tick if relevant. No further action required
<b>2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?</b>			
<b>Yes</b>			Proceed to Q3
<b>No</b>	<b>X</b>		Tick if relevant. No further action required
<b>3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?</b>			
<b>Yes</b>		State the relevant threshold here for the Class of development.	EIA Mandatory EIAR required
<b>No</b>	<b>X</b>		Proceed to Q4



<b>4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?</b>			
<b>Yes</b>	<b>N/A</b>	State the relevant threshold here for the Class of development and indicate the size of the development relative to the threshold.	Preliminary examination required (Form 2)

<b>5. Has Schedule 7A information been submitted?</b>		
<b>No</b>	<b>X</b>	<b>Pre-screening determination remains as above (Q1 to Q4)</b>
<b>Yes</b>		<b>Screening Determination required</b>

Inspector: \_\_\_\_\_ Date: \_\_\_\_\_